

DEWEY PEGNO & KRAMARSKY LLP
777 THIRD AVENUE NEW YORK, NEW YORK 10017
PHONE: (212) 943-9000 FACSIMILE: (212) 943-4325
WWW.DPKLAW.COM

May 15, 2019

BY ECF & EMAIL

Hon. Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: TNB USA Inc. v. Fed. Reserve Bank of N.Y., No. 18 Civ. 7978-ALC

Dear Judge Carter:

We represent plaintiff TNB USA Inc. (“TNB”) and write, as required by Local Civil Rule 37.2 and Your Honor’s Individual Rule of Practice 2(A), to request a pre-motion conference to address the refusal by Defendant Federal Reserve Bank of New York (“FRBNY”) to cooperate in discovery. In summary, TNB served discovery on FRBNY; FRBNY declined to respond to that discovery because no Rule 26(f) conference had taken place; FRBNY then refused to engage in such a conference. We ask for a conference with the Court to bring this procedural gamesmanship to an end.

TNB filed this action in August 2018 to enforce its statutory right to a Federal Reserve master account, requesting a speedy hearing under Fed. R. Civ. P. 57. FRBNY moved to dismiss, and that motion is now fully briefed, with non-party the Federal Reserve Board’s having moved to submit an *amicus* brief (ECF No. 29), which TNB has opposed (ECF Nos. 25 & 27). While FRBNY refuses to perform its statutory duty to provide TNB the master account at issue in this case, TNB’s business cannot function. The financial harm imposed by FRBNY’s refusal to follow the law is serious and compounding by the day.

TNB has served initial discovery requests on FRBNY (the “Requests”) and asked for a discovery conference between the parties as contemplated by Fed. R. Civ. P. 26(f). In response, FRBNY has flatly refused, claiming the Requests are “facially invalid” because no Rule 26(f) conference has taken place. At the same time, FRBNY refuses to have such a conference. The parties’ correspondence to that effect, and the Requests, are attached as Exhibits A–C.

TNB has consistently sought a speedy disposition of this case, consistent with Fed. R. Civ. P. 57, which FRBNY has sought to avoid at every turn. We therefore respectfully ask that the Court hold a Rule 16 conference so that discovery can proceed.

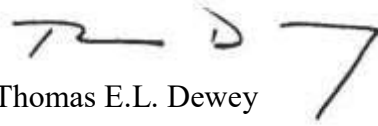
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We thank the Court for its attention.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Dewey', with a stylized flourish at the end.

Thomas E.L. Dewey

cc: Counsel of Record (by ECF & Email)